



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GROVER SELLERS
ATTORNEY GENERAL

Honorable George H. Sheppard
Comptroller of Public Accounts
Austin, Texas

0-6347

Opinion No. 0-6347
Re: Under the facts stated, is
the property of the First Presby-
terian Church of Houston exempt
from taxation?

Dear Sir:

We have received and considered your request for
opinion dated December 29, 1944. Your request encloses a
letter from Jim H. Class, Assessor and Collector of Taxes
for Harris County, from which we note the following:

"The State of Texas and County of Harris levied
an aggregate tax of \$1,257.68 for the year 1944, a-
gainst the First Presbyterian Church of Houston and/or
George S. Cohen as owners of certain land in downtown
Houston at the corner of Main Street and McKinney Avenue,
being 125 feet on Main and 85 feet on McKinney

"Would you assume for the purposes of your opinion
that said land is actually being used by the First Presby-
terian Church of Houston for religious worship? If you
will refer to the attached plot you will find outlined
in red a half block, being 125 feet on Main and Travis
by 200 feet on McKinney. This half block has been
owned and used as a church by the First Presbyterian
Church of Houston for many years. The eastern 85
feet of the half block is the land inquired about.
It is a grass plot or lawn, the balance of the half
block having church buildings upon it.

"No change in actual use of the entire half
block as a place of religious worship by the Church
has occurred. The decision to tax the lawn grew out
of an agreement between the Church and Mr. George S.
Cohen of Houston, entered into in February, 1939, a

Honorable George H. Sheppard, page 2

copy of which is next attached. You will note that this agreement provided that Mr. Cohen may make certain payments. He has actually made the initial payment of \$370,000.00, and four annual payments thereafter of \$75,000.00 each, an aggregate of \$675,000.00

"Our question therefore, is assuming that the lawn is a part of the property actually used for religious purposes, is it exempt from taxation?"

The attached contract is one granting to Cohen an option to purchase the entire half block for the price of \$1,250,000, \$370,000.00 having been paid upon execution of the contract, and requiring the payment of \$75,000.00 each year for an extension of the option for an additional year. The right of the Church to continue its use and occupancy of the property until the time of the execution of a deed to Cohen is preserved.

Your request excludes from our consideration any question of whether the property is actually used for religious purposes, or whether such use has been abandoned, or whether the property inquired about is reasonably necessary for the use and enjoyment of the balance of the half block as a place of religious worship. Therefore, this opinion shall in no way be construed as passing on these questions.

Under Article VIII, Section 2 of the Texas Constitution, and Article 7150, Section 1, §. 3., the use and ownership of property control the question of exemption, vel non. This property is owned by the First Presbyterian Church, and the letter of Jim H. Glass requires that we assume for the purposes of the opinion that said land is actually being used by the Church for religious worship. On the basis of such assumption, we can conclude only that the property is exempt from taxation.

Trusting that the foregoing fully answers your inquiry, we are

Very truly yours

ATTORNEY GENERAL OF TEXAS

By

Arthur L. Moller

Arthur L. Moller
Assistant

